
From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Sunday, April 24, 2022 11:51 AM
To: Trevor Scheetz
Cc: Peter H. Weinberger (pweinberger@spanglaw.com); Kaspar Stoffelmayr; Unterreiner, Amanda; McLaughlin, Christopher M.; Morrison, Kristin S.M.; Alex Harris; Herman (External), Steven; Hagedorn (External), Jennifer; Ladd, Matthew R.; Saltzburg, Lisa M.; Elsner, Mike; Fu, Abigail; Peter Bigelow; Crawford, Kyle
Subject: Re: Agenda Item no. 324

Dear Trevor:

I empathize with the difficulty that Meier and Kroger have in getting up to speed on hundreds of rulings entered by me and the Court over the last four years. I have trouble maintaining this awareness myself. That said, I do not have authority to override the Judge's Order at dkt no. 69, p. 5, which requires a party to ask me to formalize an "informal" email ruling within 3 days.

Of course, you can still appeal my ruling directly to the Court, and explain why you did not seek formalization. The Court may then refer it back to me. *See, e.g.*, docket no. 1349. Or it may not.

FWIW, because you asked, I will tell you very briefly that the principal reasons for my ruling denying custodian TFOs are: (1) Ds have already named many custodians from the Sheriff's Office, now including Plummer; (2) it is likely that another such custodian can testify to the main points that Kroger and Meijer would seek to elicit from a TFO -- e.g., they were never the subject of a TFO investigation; and (3) no D referred to any discovery obtained from TFOs in the Track 3 trial. Also FWIW, that no other D sought to formalize my ruling in order to object makes me think they recognize these points. I believe your discovery efforts are better directed at the custodians whom you already have.

-David

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This email sent from:
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From: Trevor Scheetz <tscheetz@sperling-law.com>
Sent: Friday, April 22, 2022 8:07 PM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Peter H. Weinberger (pweinberger@spanglaw.com) <pweinberger@spanglaw.com>; Kaspar Stoffelmayr <kaspar.stoffelmayr@bartlitbeck.com>; Unterreiner, Amanda <AUnterreiner@motleyrice.com>; McLaughlin, Christopher M. <cmmclaughlin@JonesDay.com>; Morrison, Kristin S.M. <kmorrison@jonesday.com>; Alex Harris <alex.harris@bartlitbeck.com>; Herman (External), Steven <SHerman@zuckerman.com>; Hagedorn (External), Jennifer <jhagedorn@bowlesrice.com>; Ladd, Matthew R. <matthew.ladd@morganlewis.com>; Saltzburg, Lisa M.

<lsaltzburg@motleyrice.com>; Elsner, Mike <melsner@motleyrice.com>; Fu, Abigail <afu@motleyrice.com>; Peter Bigelow <pbigelow@hilgersgraben.com>; Crawford, Kyle <KCrawford@zuckerman.com>

Subject: RE: Agenda Item no. 324

Special Master Cohen,

On behalf of Meijer and Kroger, we ask that you please formalize your ruling last Friday that Montgomery County need not add current or former Task Force Officers (TFOs) as custodians for Track 7.

When I raised this issue with Meijer's co-defendants, I was advised that there was an order entered a little more than four years ago that set forth a very short deadline for requests to formalize any informal, emailed discovery rulings. I was not aware of that deadline. As you know, Meijer was not added to an active track until May 2021. We ask your indulgence as we continue to get up to speed on the many orders and rulings that were entered in the years before we were added to an active track.

We expect that this issue will continue to come before you. Defendants continue to seek to add TFOs as custodians in the new bellwether tracks, and will continue to seek TFO- and Task Force-related discovery from both plaintiffs and the DEA. It would be most efficient if the parties could understand the basis for your custodian ruling now. I also cannot envision any prejudice to Montgomery County from the timing of this request, but I will be happy to respond if plaintiff believes there is any.

Thank you for your time and consideration.

Trevor Scheetz
Counsel for Meijer

P.S. I did not initially receive the email you sent below; a co-defendant forwarded your email to me after close of business last Friday. Please note the hyphen in tscheetz@sperling-law.com.

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From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Friday, April 15, 2022 5:46 PM
To: Peter Weinberger <pweinberger@spanglaw.com>; Stoffelmayr (External), Kaspar <kaspar.stoffelmayr@bartlitbeck.com>
Cc: Unterreiner, Amanda <AUnterreiner@motleyrice.com>; McLaughlin, Christopher M. <cmmclaughlin@JonesDay.com>; Morrison, Kristin S.M. <kmorrison@jonesday.com>; Alex Harris <alex.harris@bartlitbeck.com>; Herman, Steven <SHerman@zuckerman.com>; Jennifer Hagedorn <jhagedorn@bowlesrice.com>; Ladd, Matthew R. <matthew.ladd@morganlewis.com>; tscheetz@sperlinglaw.com; 'lsaltzburg@motleyrice.com' <lsaltzburg@motleyrice.com>; Elsner, Mike (melsner@motleyrice.com) <melsner@motleyrice.com>; Fu, Abigail <afu@motleyrice.com>; Peter Bigelow <pbigelow@hilgersgraben.com>; Crawford, Kyle <KCrawford@zuckerman.com>
Subject: Agenda Item no. 324

**** External mail ****

Thank you for your submissions regarding the four additional custodians requested by defendants in Track 7. I conclude Plaintiff Montgomery County must add Sheriff Plummer as a custodian. Plaintiff is not required to add any of the three Task Force Officers as custodians.

-David

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